



PATENT
ATTORNEY DOCKET NO. 03848-82036

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Anthony D. Barone, Glenn McGall,) Before the Examiner:
Evelyn Chai, and Nam Ngo) P. Ponnaluri
)
Serial No.: 08/574,461)
)
Filed: November 30, 1995) Art Unit: 1639
)
For: METHODS AND COMPOSITIONS FOR)
MONITORING POLYMER ARRAY)
SYNTHESIS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER PRIOR PATENTS**

Dear Sir:

Petitioner, Affymetrix, Inc., hereby states that it is the assignee of the entire right, title and interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by a terminal disclaimer, of prior United States Patent No. 6,576,425. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

USSN 08/574,461
Express Mail Receipt No. EV 066773836 US 1

08574461
12/10/2003 JBALWAN 000000080 190733
02 FC:1814 110.00 DA

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patents, as presently shortened by any terminal disclaimer, in the event that any of the prior patents later: expire for failure to pay a maintenance fee, are held unenforceable, are found invalid by a court of competent jurisdiction, are statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, have all claims canceled by a reexamination certificate, are reissued, or are in any manner terminated prior to the expiration of their full statutory term as presently shortened by any terminal disclaimer.

The undersigned (whose title is supplied below) is empowered to act on behalf of the petitioner. An assignment of the present application from the named inventors to Affymax Technologies N.V. was recorded with the USPTO on March 25, 1996, a copy of which can be found at reel 7865 frame 0978. A subsequent assignment from Affymax Technologies N.V. to Affymetrix, Inc. was recorded with the USPTO on March 26, 1996, a copy of which can be found at reel 8105 frame 0663.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: December 5, 2003



John P. Iwanicki, Reg. No. 34,628
Attorney for Applicant
~~BANNER & WITCOFF, LTD.~~
28 State Street, 28th Floor
Boston, MA 02109
617-720-9600

X Terminal disclaimer fee under 37 CFR 1.20(d) included.